

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

RODOLFO DOMINGUEZ VELAZQUEZ, )  
  )  
Plaintiff,                            )  
  )  
v.                                     )   No. 3:19-cv-00258  
  )  
VILLAGE FARMS, L.P.                )  
  )  
Defendant.                            )

**NOTICE OF REMOVAL OF DEFENDANT VILLAGE FARMS, L.P.**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

The Defendant in the above-entitled and numbered cause, VILLAGE FARMS, L.P., hereinafter referred to as "VILLAGE FARMS," files this its Notice of Removal and in support thereof shows the Court as follows:

1. Defendant has been sued in a civil action filed on or about August 15, 2019, in the 171<sup>ST</sup> District Court for El Paso County, Texas in cause number 2019DCV3055. Pursuant to Sections 1441 and 1446 of Title 28 of the United States Code, VILLAGE FARMS removes this action to the United States District Court for the Western District of Texas, El Paso Division, which is the judicial district in which the action is pending.

2. The factual grounds for removal are as follows:

- a. The Plaintiff's Original Petition and Jury Demand in this action was delivered to counsel for Defendant on August 16, 2019, so this Notice of Removal is timely filed under 28 U.S.C. § 1446(b)(1) and Fed. R. Civ. P. 6.
- b. There is complete diversity of citizenship between the parties because Plaintiff is either a citizen of the State of Texas, where he resides, or of the

Republic of Mexico. VILLAGE FARMS is a limited partnership organized under the laws of the State of Delaware. It is owned by Agro Power Development, Inc., which is a Delaware corporation with its principal place of business in the State of Florida, and Village Farms of Delaware, L.L.C., which is a Limited Liability Company organized under the laws of the State of Delaware. Village Farms of Delaware, L.L.C. is entirely owned by Agro Power Development, Inc., the same corporation that is the limited partner in Village Farms, L.P.

- c. More than \$75,000 exclusive of interest and costs is in controversy in this action because Plaintiff seeks the recovery of damages in excess of \$1,000,000. *See* Plaintiff's Original Petition, ¶ 56.
- d. Removal jurisdiction is not precluded by 28 U.S.C. § 1445(c) because an employee's work-related injury claims against an employer that is not a subscriber to worker's compensation insurance arise under Texas common law and not the Texas Worker's Compensation Act. *Gomez v. O'Reilly Automotive Stores, Inc.*, 283 F. Supp. 3d 569, 579 (W.D. Tex. 2017); *Mendez v. Wal-Mart Stores, Inc.*, 2018 U.S. Dist. LEXIS 223054, 2018 WL 7288581 (W.D. Tex. 2018); see also *American International Specialty Lines Insurance Co. v. Rentech Steel, LLC*, 620 F.3d 558, 570 (5<sup>th</sup> Cir. 2010)(holding that a negligence claim against a non-subscribing employer is not an obligation imposed by the Texas Worker's Compensation Act in the context of insurance coverage).

3. This Court has original federal diversity jurisdiction under 28 U.S.C. § 1332.
4. This Court also has original federal question jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. § 1854(a) because Plaintiff asserts claims under the federal Agricultural Worker Protection Act, 29 U.S.C. §§ 1801 *et seq.* *See* Plaintiff's Original Petition, ¶ 47 - 49.
5. A notice to the state court of filing this Notice of Removal is being filed with the District Clerk of El Paso County, Texas on this date.
6. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served upon Defendants are attached as Exhibit A.

WHEREFORE, PREMISES CONSIDERED, because the conditions for the exercise of diversity of citizenship jurisdiction and federal question jurisdiction have been fully met, Defendant VILLAGE FARMS, L.P. respectfully requests this Court to assume jurisdiction over this action as provided by law.

Respectfully submitted,

/s/ Ken Coffman

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VILLAGE FARMS, L.P.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 11<sup>TH</sup> day of September, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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/s/ Ken Coffman

KEN COFFMAN